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10 District of Nevada

11 Attorneys for the United States

12 **UNITED STATES DISTRICT COURT**  
13 **DISTRICT OF NEVADA**

14 UNITED STATES OF AMERICA, )  
15 )  
Plaintiff, )

16 v )

17 ADAM SACHS, )  
PROCLOAK SERIES II, LLC., )  
18 WELLS FARGO BANK, NA., )  
PHH MORTGAGE CORPORATION, )  
THE BANK OF NEW YORK, as )  
19 successor Trustee of )  
CSFB HOME EQUITY MORTGAGE )  
20 TRUST SERIES 2004-1, and )  
REPUBLIC SILVER STATE DISPOSAL, INC., )

21 Defendants. )  
22 )

Case No. 2:23-cv-1966

UNOPPOSED MOTION TO APPOINT  
RECEIVER TO SELL THE  
ROSEGATE AND COOPER CREEK  
PROPERTIES

23 **UNITED STATES' UNOPPOSED MOTION TO APPOINT RECEIVER TO SELL THE**  
**ROSEGATE AND COOPER CREEK PROPERTIES**

1           The United States moves this Court for an order appointing a receiver to sell the real  
2 property located at 309 Rosegate, Henderson, Nevada 89052 (“Rosegate Property”) and 3090  
3 Cooper Creek Dr., Henderson, Nevada 89074 (“Cooper Creek Property”), and states as follows:

4           1.       The United States moves for the Appointment of Patty Turner as Receiver, to take  
5 control of, and have access to, the Rosegate Property and Cooper Creek Property to prepare,  
6 market and sell these properties.

7           2.       On February 27, 2024, the Court entered the stipulation between the United States  
8 and defendants Adams Sachs (“Sachs”) and Procloak Series, II, LLC (“Procloak”). *See ECF #24.*  
9 The Stipulation provided that the Rosegate Property and Cooper Creek Property would be sold  
10 through the court-appointed receiver or by IRS PALS (Property Appraisal and Liquidating  
11 Specialist) under 26 U.S.C. §§ 7402 and 7403. *See ECF #24.*

12           3.       On July 29, 2020, the United States District Court for the Southern District of  
13 Florida, Case No. 5:20-cv-0073, entered a judgment against Sachs in favor of the United States  
14 for his federal income tax liabilities for the 2005, 2006, 2007, 2010, 2011, and 2012 tax years in  
15 the aggregate amount of \$3,410,614.94 as of February 21, 2020, plus statutory additions and  
16 prejudgment and post judgment interest thereon at the rates set forth in 26 U.S.C. §§ 6601 and  
17 6621 as adopted by 28 U.S.C. § 1961(c) until paid. *See ECF #24.* Sachs does not contest this  
18 judgment.

19           4.       Pursuant to 26 U.S.C. § 6321, a federal tax lien is automatically created by  
20 operation of law without the necessity of litigation and the United States can foreclose its lien  
21 pursuant to 26 U.S.C. § 7403. Sachs and Procloak stipulated that the federal tax liens for 2005,  
22 2006, 2007, 2010, 2011 and 2012 tax years attach to the Rosegate and Cooper Creek Properties.  
23 ECF#24. The United States has valid and subsisting federal tax liens under in 26 U.S.C. §§ 6321

1 and 6322 for Adam Sachs' federal income tax liabilities for the 2005, 2006, 2007, 2010, 2011,  
2 and 2012 tax years that are attached to the Rosegate Property and Cooper Creek Property.

3 5. The transfers of the Rosegate and Cooper Creek Properties from Sachs to  
4 Procloak were made subject the United States' statutory federal tax liens for the 2005-2007 and  
5 2010 tax years and the United States has valid tax liens on these properties. See ECF #24.

6 6. Sachs is the true, equitable and beneficial owner of the Rosegate Property and  
7 Cooper Creek Property. *See ECF #24.*

8 7. Accordingly, the United States is also entitled to foreclose its federal tax liens,  
9 through a receiver under 26 U.S.C. §§ 7402 and 7403 upon the Rosegate Property which is fully  
10 described as follows:

11 Lot Twelve (12) in Block One (1) of GREEN VALLEY RANCH - PARCEL 42, as  
12 shown by map thereof on file in Book 75 of Plats, Page 39, and amended by Certificates  
13 of Amendment recorded September 3, 1996, in Book 960903 as Document No. 00965  
and March 12, 1999, in Book 990312 as Document No. 01256, of Official Records, in the  
Office of the County Recorder of Clark County, Nevada.

14 8. The United States is also entitled to foreclose its federal tax liens, through a  
15 receiver under 26 U.S.C. §§ 7402 and 7403 upon the Cooper Creek Property which is fully  
16 described as follows:

17 Lot 70 in Block 5 of Vistara at Pebble Canyon, as shown by map thereof on file in  
18 Book 49 of Plats, Page 94 in the Office of the County Recorder of Clark County,  
Nevada.

19 9. 26 U.S.C. § 7402(a) provides that the Court has the power to issue "orders  
20 appointing Receivers, and such other orders and processes . . . as may be necessary or  
21 appropriate for the enforcement of the internal revenue laws." 26 U.S.C. § 7403(d) provides that  
22 in any lien enforcement proceeding, at the request of the United States, the court may appoint a  
23 receiver to enforce the lien. The sale of the Rosegate Property and Cooper Creek Property by a  
local real estate agent acting as a Receiver is likely to yield a higher sales price and larger net

1 proceeds than would an auction sale by the United States Marshal pursuant to 26 U.S.C. § 2001,  
2 or a state foreclosure sale.

3 10. Defendants Sachs and Procloak consented to the appointment of a receiver and  
4 sale of the Rosegate Property and Cooper Creek Property. *See ECF #24.* Sachs and Procloak  
5 have proposed and requested that local real estate agent Patty Turner be appointed as receiver to  
6 sell the Rosegate and Cooper Creek properties.

7 11. The undersigned counsel for the United States has discussed the possibility of an  
8 appointment as a Receiver to take control of, and to arrange for the sale of the Rosegate Property  
9 and Cooper Creek Property with **Patty Turner**, whose address is at 2225 Village Walk Dr.,  
10 Suite 200, Henderson, Nevada 89052. Ms. Turner has indicated that she would be willing to  
11 accept the appointment on the terms set forth in the proposed Order Appointing Receiver that is  
12 associated with this motion.

13 11a. Patty Turner is a licensed real estate agent in the State of Nevada. Ms.  
14 Turner's Nevada real estate license is current. She has over 30 years of experience as a real  
15 estate agent in the Clark County Nevada area, including Henderson, Nevada. Ms. Turner is  
16 familiar with the areas where the Rosegate Property and Cooper Creek Property are located.

17 11b. Ms. Turner has stated that she is not related to the parties in this case nor  
18 to anyone in the United States Department of Justice Tax Division or the United States Attorneys  
19 Office for the District of Nevada. The commission to be paid to Ms. Turner is a standard real  
20 estate commission. No part of the receiver's commission will be paid or kicked back to any  
21 party or counsel in this suit.

22 11c. For the reasons set forth in paragraphs 11a., and 11b., above, the United  
23 States recommends the appointment of Patty Turner as Receiver.

1           12.     The sales proceeds from the properties after payment of costs and taxes will be  
2 distributed upon further order of the court in accordance with the rights of the parties including  
3 the signed stipulations entered in this case, *see* ECF ## 24, 30, and 31 and items set forth in the  
4 proposed Order submitted with this motion.

5           13.     Sachs and Procloak are not opposed to the relief sought in the motion as indicated  
6 by their counsel's signature on this motion. Defendants PHH Mortgage and Wells Fargo have  
7 entered into stipulations with respect to their lien priorities on the Rosegate and Cooper Creek  
8 properties and limiting their participation in this case. *See ECF #30 and 31, respectively.*  
9 Further, defendants Wells Fargo and PHH Mortgage have stated that they are not opposed to the  
10 relief sought by this motion.

11           WHEREFORE, the plaintiff, the United States of America, requests an order of this  
12 Court appointing Patty Turner as Receiver, to take control of, and to arrange for the sale of,  
13 the Rosegate Property and Cooper Creek Property, in the form associated with this motion.

14  
15                                 DAVID A. HUBBERT  
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17                                 /s/ Herbert W. Linder  
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1 Unopposed to relief by the motion:

2  
3 /s/ Shawn R. Perez, Esq.

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10 ATTORNEY for ADAM SACHS & PROCLOAK SERIES II, LLC.

11 "IT IS SO ORDERED:

12 

13 UNITED STATES DISTRICT JUDGE

14 DATED: March 19, 2024 "